



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB 29 2012

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

FILE COPY

Paul J. Pallas, Superintendent
Rockville Centre Power Plant
110 Maple Avenue
Rockville Centre, NY 11571

**Re: Notice of Violation
EPA Docket No. CAA-02-2012-1301**

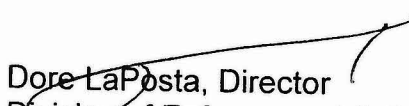
Dear Mr. Pallas:

Pursuant to the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, 42 U.S.C. § 7413(a)(1), Section 113(a)(1) of the CAA, the United States Environmental Protection Agency (EPA) issues the enclosed Notice of Violation (NOV) to The Village of Rockville Centre for violations at the Rockville Centre Power Plant (Rockville), located in Rockville Centre, New York.

In the NOV, EPA determined that Rockville is in violation of the New York Code, Rules and Regulations, Subpart 227, entitled "Stationary Combustion Installations" for the particulate matter emission standards, and Subpart 227-2, entitled "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_x)" for the nitrogen oxide emission standards. These rules are part of New York's federally-approved State Implementation Plan. 40 C.F.R. § 52.1679.

As indicated in the NOV, if Rockville wishes to request a conference with EPA to discuss this NOV, it must do so within seven (7) days of receipt of the NOV. If you have any questions, or would like to schedule the conference provided for in the NOV, please contact Denise Leong, Assistant Regional Counsel, at (212) 637-3214.

Sincerely,


Dore LaPosta, Director
Division of Enforcement & Compliance Assistance

Enclosure

ЕІГЕ СОБА

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Village of Rockville Centre, New York

Respondent

NOTICE OF VIOLATION

Index No.: CAA-02-2012-1301

Summary

This Notice of Violation (NOV) is issued to the Village of Rockville Centre, New York (Respondent), by the Director of the Division of Enforcement and Compliance Assistance for the United States Environmental Protection Agency (EPA) Region 2, pursuant to Section 113(a)(1), 42 U.S.C. § 7413(a)(1), of the Clean Air Act (CAA or the Act), 42 U.S.C. §§ 7401 *et seq.* The NOV identifies violations of the EPA-approved CAA state implementation plan, or SIP, for the State of New York at Respondent's Rockville Centre Power Plant (the Facility). More specifically, in the NOV, the Director finds that Respondent has violated and is violating the SIP for the State of New York by failing to comply with particulate matter and nitrogen oxide emissions standards that are set forth in 6 NYCRR Section 227.2(b)(1) and 6 NYCRR Subpart 227-2, respectively. In Region 2, the authority to find CAA violations and to issue NOVs for those violations has been delegated to the Director by the EPA Administrator through the Regional Administrator.

Statutory and Regulatory Background

National Ambient Air Quality Standards and State Implementation Plans under the CAA

1. Section 109 of the CAA directs the EPA Administrator to promulgate regulations establishing primary and secondary national ambient air quality standards (NAAQS) for each air pollutant for which air quality criteria have been issued pursuant to Section 108 of the Act.

2. Section 107 of the CAA creates a procedure by which EPA promulgates NAAQS-related designations for air quality control regions, or areas, within each state. Areas that meet the NAAQS for a particular pollutant are designated “attainment” areas for that pollutant, while areas that do not meet the NAAQS are designated “nonattainment” areas. Areas that cannot be designated based on the available data are designated “unclassifiable.”

3. Section 110(a)(1) of the CAA requires, among other things, that each state adopt and submit to EPA for approval, a plan that provides for the implementation, maintenance, and enforcement of the primary and secondary NAAQS in each air quality control region in the state. Such plans, once approved by EPA, are known as State Implementation Plans, or SIPs.

4. Part D of Title I of the CAA, consisting of Sections 171 through 193 of the Act, contains SIP-related provisions that apply to states with nonattainment areas.

5. Subpart 1 of Part D, entitled “Nonattainment Areas in General” and consisting of Sections 171 through 179B of the Act, contains provisions that apply to every type of pollutant for which a NAAQS exists.

6. Subpart 2 of Part D, entitled “Additional Provisions for Ozone Nonattainment Areas” and consisting of Sections 181 through 185 of the Act, contains provisions that apply to states with ozone nonattainment areas.

7. Section 172(e) of the CAA provides that if the Administrator relaxes a primary NAAQS after November 15, 1990, the Administrator shall promulgate requirements for all areas that have not attained the NAAQS as of the date of relaxation, and further provides that the requirements shall provide for controls that are not less stringent than the applicable controls before the relaxation. Section 172(e) of the Act is sometimes referred to as an anti-backsliding provision.

8. Section 182 of the CAA provides that states with nonattainment areas for ozone must include in their SIP submissions rules requiring the use of reasonable available control technology (RACT) for volatile organic compounds (VOCs), with the specific provisions depending on whether the nonattainment is marginal, moderate, serious, severe or extreme.

9. Section 182(f)(1) of the CAA provides that the SIP provisions required for major stationary sources of VOCs shall also apply to major stationary sources of NO_x.

The Ozone NAAQS

10. In 1971, EPA promulgated a 1-hour ozone NAAQS of 0.08 parts per million (ppm). See 36 Fed. Reg. 22384 (November 25, 1971).

11. In 1979, EPA promulgated a revised 1-hour ozone NAAQS of 0.12 ppm. See 44 Fed. Reg. 8202 (February 8, 1979).

12. In 1997, EPA replaced the 1-hour ozone NAAQS with an 8-hour ozone NAAQS. See 62 Fed. Reg. 38856 (July 18, 1997).

13. In 2004, EPA promulgated attainment and nonattainment designations for the 8-hour ozone NAAQS and revoked the 1-hour ozone NAAQS. See 69 Fed. Reg. 23858 (April 30, 2004) (promulgating the 8-hour designations) and 69 Fed. Reg. 23951 (April 30, 2004) (revoking the 1-hour NAAQS). Consistent with the CAA's anti-backsliding provisions, EPA explained that all areas designated nonattainment for the 8-hour ozone NAAQS that had been designated nonattainment for the 1-hour ozone NAAQS at the time of designation for the 8-hour NAAQS remained subject to the ozone-related control measures that applied to the area by virtue of the area's classification for the 1-hour NAAQS. See 69 Fed. Reg. at 23954 (April 30, 2004).

14. At all times relevant to the violations identified in this NOV and continuing to the date of this NOV, the ozone-related SIP requirements that applied to areas that had been designated nonattainment for the 1-hour NAAQS continued to apply in areas designated nonattainment for the 8-hour ozone NAAQS. See 40 C.F.R. § 51.905(a).

Nassau County, New York's Nonattainment Status for the Ozone NAAQS

15. In 1990, EPA classified Nassau County, New York, pursuant to Section 107 of the CAA, as a severe nonattainment area for the 1-hour ozone NAAQS. See 40 C.F.R. § 81.333.

16. In April 2004, EPA revoked the 1-hour ozone NAAQS for all areas in New York, effective June 15, 2005, and classified Nassau County, New York, as Subpart 2/Moderate nonattainment for the 8-hour ozone NAAQS. See 40 C.F.R. § 81.333.

6 NYCRR Section 227.2(b)(1)

17. In September 1972, EPA approved into the SIP for the State of New York, and made federally enforceable, Section 227.2(b)(1) of the 1972 version of 6 New York Code, Rules and Regulations (NYCRR) Part 227. See 37 Fed. Reg. 19814 (September 22, 1972).

18. In November 1981, EPA approved, with certain exceptions, a new 6 NYCRR Part 227 into the SIP for the State of New York. See 46 Fed. Reg. 55690 (November 12, 1981). However, the SIP continued to include the previously approved 6 NYCRR Section 227.2(b)(1). See 40 C.F.R. § 52.1679.

19. 6 NYCRR Section 227.2(b)(1), as approved into the SIP in 1972, and as it remains in the SIP as of the date of this NOV, provides that no person shall cause, permit, or allow a two hour average emission, into the outdoor atmosphere, of particles in excess of 0.10 pounds per million British thermal units (BTU) heat input from any oil fired stationary combustion installation.

20. 6 NYCRR Section 200.1, as approved into the SIP, includes 6 NYCRR Section 200.1(l)(1), which defines "combustion installation" as an installation consisting of a single furnace, device, engine or turbine in which fossil fuel and/or wood is burned with air or oxygen and the air contaminant emission include only those products resulting from combustion of the fuel.

6 NYCRR Subpart 227-2

21. At all times relevant to the violations identified in this NOV, the SIP for the State of New York included 6 NYCRR Subpart 227-2, entitled "Reasonably Available

Control Technology (RACT) for Oxides of Nitrogen (NO_x).” See 40 C.F.R. § 52.1679; see also 66 Fed. Reg. 28063 (May 22, 2001) (approving revisions to 6 NYCRR Subpart 227-2 that New York submitted to EPA in 2000).

22. 6 NYCRR Subpart 227-2.1(a)(6), as approved into the SIP, provides that Subpart 227-2 is applicable to several “major stationary sources of NO_x,” including, among others, “stationary internal combustion engines.”

23. At all times relevant to the violations identified in this NOV, 6 NYCRR Subpart 201-2.1(b)(21) defined “major stationary source” as including, among other types of facilities, any stationary source with a potential to emit more than 100 tons per year (tpy) of NO_x. However, for areas classified as severe ozone nonattainment, any stationary source, source, or facility with the potential to emit more than 25 tpy of NO_x or VOC is also a major stationary source.

24. 6 NYCRR Subpart 227-2.2(10), as approved into the SIP, defines “lean burn internal combustion engine” as any stationary internal combustion engine that is operated so that the amount of oxygen in the engine exhaust is 1.0 percent or more, by volume on a dry basis.

25. 6 NYCRR Subpart 227-2.2(b)(20), as approved into the SIP, defines “stationary internal combustion engine” as any internal combustion engine of either reciprocating or rotary type whose uses may include, but are not limited to, the generation of electric power, pumping gases and liquids, and compressing air for pneumatic machinery.

26. 6 NYCRR Subpart 227-2.4(f)(2), as approved into the SIP, requires, among other things, that the owner or operator of a stationary internal combustion engine of 200 horsepower (hp) or larger in a severe ozone nonattainment area and 400 hp or larger for all other areas must comply with a NO_x emission limit of 9.0 grams per brake horsepower-hour (g/bhp-hr) through March 31, 2005 and 2.3 g/bhp-hr beginning April 1, 2005.

Findings of Fact

27. Respondent owns and operates the Rockville Centre Power Plant (previously defined as the Facility).

28. The Facility is located in Nassau County, New York, which, at all times relevant to the violations identified in this NOV, was classified as a moderate nonattainment area for the 8-hour ozone NAAQS and severe nonattainment for the 1-hour ozone NAAQS.

29. A June 2004 NO_x Compliance Plan for the Facility indicates that the Facility has the potential to emit over 25 tpy of NO_x.

30. The June 2004 NO_x Compliance Plan for the Facility indicates that the Facility includes, and that Respondent owns and operates, at the Facility, stationary internal combustion engines that are lean burn internal combustion engines, identified as Units 7 through 14, that fire No. 2 fuel oil and/or No. 2 fuel oil and natural gas (dual fuel).

31. The June 2004 NO_x Compliance Plan indicates that Unit 7 is rated at 2680 hp, Unit 8 is rated at 3620 hp, Unit 9 is rated at 4290 hp, Unit 10 is rated at 4290 hp,

Unit 11 is rated at 6970 hp, Unit 12 is rated at 7380 hp, Unit 13 is rated at 7380 hp and Unit 14 is rated at 8300 hp.

32. New York State Department of Conservation (NYSDEC) issued a New York State Title V Operating Permit to the Facility with an effective date of October 26, 1998 and an expiration date of October 23, 2003.

33. On April 1, 2003, Respondent submitted to NYSDEC a Title V Operating Permit Renewal Application.

34. On March 17, 2009, under the authority of Section 114 of the CAA, EPA issued an information request letter (Section 114 Letter), Reference No. CAA-02-2009-1460, to Respondent.

35. Enclosure 1 of the Section 114 Letter, entitled "Compliance Testing," directed Respondent to conduct performance tests for nitrogen oxides (NO_x), carbon monoxide (CO) and particulate matter (PM) on all eight of the reciprocating internal combustion engines operating at the Facility, to determine its compliance status with the applicable NO_x emission limit in the SIP-approved 6 NYCRR Subpart 227-2.4(f)(3), CO emission limit in the Facility's CAA Title V Operating Permit Items 37.2 and 44.2, and PM emission limit in the SIP-approved 6 NYCRR Section 227.2(b)(1).

36. Respondent conducted performance tests on all eight of its reciprocating internal combustion engines from August 25, 2009 to September 15, 2009.

37. In a letter dated October 27, 2009, Respondent submitted to EPA a Compliance Emission Test Report for the Facility in response to the Section 114 Letter.

38. In a letter dated March 17, 2010, Respondent submitted to EPA a revised Compliance Emission Test Report, Rev. 1 - March 5, 2010 for the Facility for the period of August 25, 2009 to September 15, 2009.

39. The Compliance Emission Test Report Rev. 1 indicates that, **Unit 7**, when firing **oil**, had the following emission rates:

- a. PM at 0.196 lb/MMBtu, which is greater than the 0.10 lb/MMBtu PM emission limit, under **maximum** load.
- b. NO_x at 6.61 g/bhp, which is greater than the 2.3 g/bhp-hr NO_x emission limit, under **maximum** load.
- c. NO_x at 8.36 g/bhp, which is greater than the 2.3 g/bhp-hr NO_x emission limit, under **partial** load.

40. The Compliance Emission Test Report Rev. 1 indicates that **Unit 8**, when firing **oil**, had the following emission rates:

- a. PM at 0.224 lb/MMBtu, which is greater than 0.10 lb/MMBtu PM emission limit, under **maximum** load.
- b. NO_x at 6.85 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, under **maximum** load.
- c. NO_x at 9.47 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, under **partial** load.

41. The Compliance Emission Test Report Rev. 1 indicates that **Unit 9** had the following emission rates:

- a. PM at 0.115 lb/MMBtu, which is greater than 0.10 lb/MMBtu PM emission limit, when firing **oil** under **partial** load.

- b. NO_x at 3.94 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **maximum** load.
- c. NO_x at 2.99 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **partial** load.
- d. NO_x at 9.34 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **maximum** load.
- e. NO_x at 10.60 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **partial** load.

42. The Compliance Emission Test Report Rev. 1 indicates that **Unit 10** had the following emission rates:

- a. PM at 0.109 lb/MMBtu, which is greater than 0.10 lb/MMBtu PM emission limit, when firing **oil** under **partial** load.
- b. NO_x at 3.69 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **maximum** load.
- c. NO_x at 2.42 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **partial** load.
- d. NO_x at 8.83 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **maximum** load.
- e. NO_x at 9.89 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **partial** load.

43. The Compliance Emission Test Report Rev. 1 indicates that **Unit 11** had the following emission rates:

- a. PM at 0.124 lb/MMBtu, which is greater than 0.10 lb/MMBtu PM emission limit, when firing **oil** under **partial** load.
- b. NO_x at 3.95 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **maximum** load.
- c. NO_x at 2.49 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **partial** load.
- d. NO_x at 9.91 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **maximum** load.
- e. NO_x at 10.30 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **partial** load.

44. The Compliance Emission Test Report Rev. 1 indicates that **Unit 12** had the following emission rates:

- a. PM at 0.140 lb/MMBtu, which is greater than 0.10 lb/MMBtu PM emission limit, when firing **oil** under **maximum** load.
- b. PM at 0.197 lb/MMBtu, which is greater than 0.10 lb/MMBtu PM emission limit, when firing **oil** under **partial** load.
- c. NO_x at 2.51 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **maximum** load.
- d. NO_x at 10.32 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **maximum** load.

- e. NO_x at 10.89 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **partial** load.

45. The Compliance Emission Test Report Rev. 1 indicates that **Unit 13** had the following emission rates:

- a. PM at 0.132 lb/MMBtu, which is greater than 0.10 lb/MMBtu PM emission limit, when firing **oil** under **partial** load.
- b. NO_x at 3.85 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **maximum** load.
- c. NO_x at 2.98 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **dual fuel** under **partial** load.
- d. NO_x at 10.55 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **maximum** load.
- e. NO_x at 11.28 g/bhp, which is greater than 2.3 g/bhp-hr NO_x emission limit, when firing **oil** under **partial** load.

46. The table¹ below summarizes the emission test data provided in the Compliance Emission Test Report Rev. 1 for Units 7 through 13 that exceeded the emission limit:

Summary of Emission Test Data from Compliance Emission Test Report Rev.1

Unit	Fuel	Emission Parameter	Emission Rate	Emission Limit
7	Oil, Max. Load	PM, lb/MMBtu	0.196	0.10
	Oil, Max. Load	NO _x , g/bhp-hr	6.61	2.3
	Oil, Part. Load	NO _x , g/bhp-hr	8.36	2.3
8	Oil, Max. Load	PM, lb/MMBtu	0.224	0.10
	Oil, Max. Load	NO _x , g/bhp-hr	6.85	2.3
	Oil, Part. Load	NO _x , g/bhp-hr	9.47	2.3

¹ The table does not summarize emission test data from the Compliance Emission Test Report Rev. 1 for Unit 14 because no exceedances of the emission limits were found for Unit 14.

9	Oil, Part. Load	PM, lb/MMBtu	0.115	0.10
	Dual fuel, Max. Load	NO _x , g/bhp-hr	3.94	2.3
	Dual fuel, Part. Load	NO _x , g/bhp-hr	2.99	2.3
	Oil, Max. Load	NO _x , g/bhp-hr	9.34	2.3
	Oil, Part. Load	NO _x , g/bhp-hr	10.60	2.3
10	Oil, Part. Load	PM, lb/MMBtu	0.109	0.10
	Dual fuel, Max. Load	NO _x , g/bhp-hr	3.69	2.3
	Dual fuel, Part. Load	NO _x , g/bhp-hr	2.42	2.3
	Oil, Max. Load	NO _x , g/bhp-hr	8.83	2.3
	Oil, Part. Load	NO _x , g/bhp-hr	9.89	2.3
11	Oil, Part. Load	PM, lb/MMBtu	0.124	0.10
	Dual fuel, Max. Load	NO _x , g/bhp-hr	3.95	2.3
	Dual fuel, Part. Load	NO _x , g/bhp-hr	2.49	2.3
	Oil, Max. Load	NO _x , g/bhp-hr	9.91	2.3
	Oil, Part. Load	NO _x , g/bhp-hr	10.30	2.3
12	Oil, Max. Load	PM, lb/MMBtu	0.140	0.10
	Oil, Part. Load	PM, lb/MMBtu	0.197	0.10
	Dual fuel, Max. Load	NO _x , g/bhp-hr	2.51	2.3
	Oil, Max. Load	NO _x , g/bhp-hr	10.32	2.3
	Oil, Part. Load	NO _x , g/bhp-hr	10.89	2.3
13	Oil, Part. Load	PM, lb/MMBtu	0.132	0.10
	Dual fuel, Max. Load	NO _x , g/bhp-hr	3.85	2.3
	Dual fuel, Part. Load	NO _x , g/bhp-hr	2.98	2.3
	Oil, Max. Load	NO _x , g/bhp-hr	10.55	2.3
	Oil, Part. Load	NO _x , g/bhp-hr	11.28	2.3

47. The Facility is still in operation. The results of the stack test is evidence that the Facility continues to exceed the emission limits and EPA is not aware of any changes that would bring the Facility's emissions below the emission limits.

Conclusions of Law

Based on the Findings of Fact set forth above, EPA concludes the following:

48. The Facility's Units 7 through 13 are stationary "combustion installations," within the meaning of 6 NYCRR Section 200.1(l)(1) and are "oil fired stationary

combustion installations,” within the meaning of the SIP-approved 6 NYCRR

Section 227.2(b)(1). (See Paragraph 30 above.)

49. The Facility’s Units 7 through 13 are subject to the PM emission limits in the SIP-approved 6 NYCRR Section 227.2(b)(1).

50. The Facility’s Units 7 through 13 are “lean burn internal combustion engines,” within the meaning of the SIP-approved 6 NYCRR Subpart 227-2.2(10). (See Paragraph 30 above.)

51. The Facility’s Units 7 through 13 are subject to the NO_x emission limits in the SIP-approved 6 NYCRR Subpart 227-2. (See Paragraphs 30 and 31 above.)

52. Respondent has violated and is violating the SIP-approved 6 NYCRR Section 227.2(b)(1) when Units 7 through 13 exceeded the PM emission limit of 0.10 lb/MMBtu while firing oil.²

53. Respondent has violated and is violating the SIP-approved 6 NYCRR Subpart 227-2.4(f)(2) when Units 7 through 13 exceeded the NO_x emission limit of 2.3 g/bhp-hr while firing dual fuel.³

54. Respondent has violated and is violating the SIP-approved 6 NYCRR Subpart 227-2.4(f)(2) when Units 7 through 13 exceeded the NO_x emission limit of 2.3 g/bhp-hr while firing oil.⁴

² This federally approved applicable requirement is not included in the Facility’s Title V Permit. This is also a violation of the Title V Permit Program.

³ This is also a violation of the federally approved NO_x emission limit that is in the Title V Permit as an applicable requirement. Section 113 of the CAA does not require EPA to issue an NOV for violations of Title V permits. See Section 113(a)(3).

⁴ See Footnote 2.

Enforcement

Section 113(a)(3) of the CAA authorizes EPA to take any of the following actions in response to Respondent's violation(s) of the Act and regulations promulgated under the Act:

- issue an administrative penalty order, for penalties up to \$25,000 per day pursuant to Section 113(d) of the Act and adjust the maximum penalty provided by the Act up to \$27,500 per day for each violation that occurs from January 30, 1997 through March 14, 2004, \$32,500 per day for each violation that occurs on or after March 15, 2004, and \$37,500 per day for each violation that occurs after January 12, 2009, in accordance with the Debt Collection Improvement Act, 31 U.S.C. 3701 et seq. (DCIA), and 40 C.F.R. Part 19, promulgated pursuant to DCIA; and
- bring a civil action pursuant to Section 113(b) of the Act for injunctive relief and/or civil penalties and adjust these penalties for inflation in accordance with the DCIA and 40 C.F.R. Part 19.

Furthermore, for any person who knowingly violates any requirement or prohibition of an applicable implementation plan for more than thirty (30) days after the date of the issuance of a NOV, Section 113(c) of the Act provides for criminal penalties or imprisonment, or both. In addition, under Section 306 of the Act, the regulations promulgated thereunder (40 C.F.R. Part 15), and Executive Order 11,738, facilities to be utilized in federal contracts, grants and loans must be in full compliance with the Act and all regulations promulgated pursuant thereto. Violation of the Act may result in the subject facility, or other facilities owned or operated by Respondent, being declared ineligible for participation in any federal contract, grant, or loan program.

Penalty Assessment Criteria

Section 113(e)(1) of the CAA states that if a penalty is assessed pursuant to Sections 113 or 304(a) of the Act, the Administrator or the court, as appropriate, shall, in

determining the amount of the penalty to be assessed, take into consideration the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require.

Section 113(e)(2) of the Act allows the Administrator or the court, as appropriate, to assess a penalty for each day of violation. In accordance with Section 113(e)(2) of the Act, EPA will consider a violation to continue from the date the violation began until the date Respondent establishes that they have achieved continuous compliance. If Respondent proves that there was an intermittent day of compliance or that the violation was not continuous in nature, EPA will reduce the penalty accordingly.

Opportunity for Conference

Respondent may request a conference with EPA concerning the violations alleged in this NOV. This conference will enable Respondent to present evidence bearing on the findings of violation, on the nature of the violation, and on any efforts Respondent may have taken or may propose to take to achieve compliance. Respondent may arrange to be represented by legal counsel.

Respondent's request for a conference must be confirmed in writing within thirty (30) calendar days of receipt of this NOV. The request for a conference, or other inquiries concerning this NOV, should be made to:

Denise Leong
U.S. Environmental Protection Agency – Region 2
Office of Regional Counsel, Air Branch
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3214

Issued: FEBRUARY 29, 2012


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency – Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

To: Paul J. Pallas, Superintendent of Electric Utility
Rockville Centre Power Plant
110 Maple Avenue
P.O. Box 950
Rockville Centre, New York 11571-0950

cc: Tanja Shonkwiler
Duncan, Weinberg, Genzer & Pembroke, P.C.
1615 M Street NW
Washington, D.C. 20036

Robert J. Stanton, P.E., Director
Bureau of Stationary Sources
New York State Department of Environmental Conservation
625 Broadway, 2nd Floor
Albany, New York 12233-3254

Merlange Genece, Regional Air Pollution Control Engineer
New York State Department of Environmental Conservation, Region 1
SUNY Campus, Building 40
Stony Brook, New York 11790 – 3409

Humberto Roman, Environmental Engineer
New York State Department of Environmental Conservation, Region 1
SUNY Campus, Building 40
Stony Brook, New York 11790 – 3409

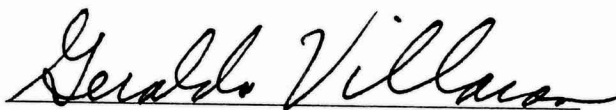
Ms. Colleen McCarthy, Senior Counsel
New York State Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, New York 12233-5500

Craig Elgut, Regional Attorney
New York State Department of Environmental Conservation, Region 1
SUNY Campus, Building 40
Stony Brook, New York 11790 – 3409

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON March 5, 2012, I MAILED A TRUE COPY OF THE ATTACHED DOCUMENT BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED, ARTICLE NUMBERS 7005-3110-0000-5947-3429 POSTAGE PRE-PAID, UPON THE FOLLOWING PERSON(S):

**Paul J. Pallas, Superintendent
Rockville Centre Power Plant
110 Maple Avenue
Rockville Centre, New York 11571**


Geraldo Villaran

